



U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention:

Directors, Offices of Public Housing;
Offices of Native American Programs; Section
8 Public Housing Agencies and Indian
Housing Authorities; Community Planning and
Development Division Directors

Notice PIH 96-63 (HA)

Issued: August 9, 1996

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Cross References:

Subject: Determining Section 8 Rents For Units in HOME-
assisted Projects

1. **Purpose.** The purpose of this notice is to inform public housing agencies and Indian housing authorities (HAs) that units in HOME-assisted projects are considered eligible housing for families receiving Section 8 tenant-based assistance. This notice also provides guidance to HAs on determining Section 8 rents in projects receiving assistance under the HOME program.
2. **Applicability.** This notice applies to HAs operating the Section 8 rental voucher and rental certificate programs.
3. **Background.** There is no regulatory prohibition against Section 8 families leasing units in HOME-assisted projects. HOME-assisted projects are a valuable source of affordable housing for Section 8 rental certificate and rental voucher families. However, it has come to the Department's attention that some HAs have been refusing to provide Section 8 tenant-based assistance to families selecting units in HOME-assisted projects. The reason cited for refusing to provide Section 8 assistance centers around rent reasonableness determinations under the Section 8 program and the procedures under the HOME program for determining the rent an owner may charge for a specific unit in a HOME-assisted project.

The HOME program may set three different rents for units in the same project: (1) the market rent; (2) the High HOME rent which is the rent that does not exceed 30 percent of the adjusted income of a family whose gross income equals 65 percent of the median income of the area; and (3) the Low HOME rent which is the rent that

does not exceed 30 percent of the gross income of a family whose income equals 50 percent of the median income for the area. In the case of projects with three or more units, or in the case of an owner of multiple one or two unit projects with a total of three or more rental units, not less than 20 percent of the rental units must be occupied by very-low income families at Low HOME rents.

Once an owner has met the 20 percent threshold of Low HOME rent units, an owner may request the HA to approve the High HOME rent for a unit identical to the one which is designated a Low HOME rent unit in the same building. The request for a higher rent is consistent with the HOME program regulations.

However, when the HA conducts its rent reasonableness test and realizes that the owner is charging a lower rent for the same unit, the HA, sometimes, determines that the request for the higher rent is not reasonable and refuses to provide Section 8 assistance for the family at the higher rent whether or not the higher rent meets the rent reasonableness and fair market rent (FMR) limitation.

4. **Determining the Section 8 Contract Rent for Units Leased in HOME-assisted Projects.**

HAS should determine rent reasonableness for units in HOME-assisted projects the same as for any other unit leased in the private market. Pursuant to Section 882.106(b) of the rental certificate program regulations, HAS must determine that rents charged for units leased in the Section 8 program are reasonable based on rents charged for comparable **unassisted** units in the local market and not in excess of rents currently being charged by the owner for comparable **unassisted** units. In determining rent reasonableness in HOME-assisted projects, HAS may only consider market rent units as comparables when looking at rents currently being charged by the owner. Additionally, the rent approved for the unit may not exceed the High HOME rent in accordance with Section 92.252 of the HOME program regulations. Note example below:

Example: A HOME-assisted project has the following rent schedule for 2-bedroom units:

High HOME rent	\$400
Low HOME rent	\$300

The FMR is \$470. The HA determines the reasonable rent for the unit to be \$410. The rent for the High HOME units would be \$400, while the rents for Low HOME units would be \$300. \$410 could not be approved as the rent for the unit because it exceeds the High HOME rent.

/s/
Kevin Emanuel Marchman, Acting Assistant
Secretary for Public and Indian Housing